

T W O

Great Questions DETERMINED

BY THE

PRINCIPLES

O F

Reason. & Divinity.

- I. Whether the Right to *Succession*, in Hæreditary Kingdoms, be *Eternal* and *Unalterable*? *Neg.*
- II. Whether some certain Politick Reasons may not be sufficient Grounds of *Divorce*? *Affirm.*

— It was Enacted and Provided out of the Warrant of Ancient Laws, That if any should Affirm, That the Laws and Statutes cannot Limit and Bind the Right of the Crown, and the Succession thereof, every such Person should be Guilty of High-Treason. Camb. Hist. of Qu. Eliz. Ann. 1571, & 1572.

ΑΓΑΜΟΣ ΓΑΜΟΣ. Erasim.

L O N D O N,

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Great Questions

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BY THE

PRINCIPLES

OF

Reason & Divinity.

1. Whether the Right to Succession in the
Church is limited to the natural and lawful

Heir.

2. Whether the Right to Succession in the
Church is limited to the natural and lawful

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3. Whether the Right to Succession in the
Church is limited to the natural and lawful
Heir.

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T W O

Great Questions.

I. *Question.*

Whether the Right to Succession in Hereditary Kingdoms, be Eternal and Unalterable ?

CHAP. I.

That the Power and Authority which Princes, or Supreme Magistrates have, is derived to them from God ; and that, by these several Ways, Immediate Deputation, Hereditary Succession, and Election.

BEing about to Discourse of a Point both difficult and dangerous, I mean, The Right of Succession to Supreme Authority, whether it be not limited by Conditions, and subject to *Alterations* ? I shall in the following Dispute use such Caution in Arguing, and that too, from no worse Topicks than Principles of Reason and Divinity, as may, I hope, prove some means of Satisfaction, but none of Distaste. And because this Question about the *Alterability* of Succession to the Supreme Authority, will receive great Light from a Discussion of what is the Nature of that Right which

B Princes

Princes have to Succession, and the Nature of that Right be Cleared, by a Consideration of him who gives it, and to what Ends; I shall in the first place state, from what Fountain, Power, and Authority, it is Derived; by what Ways, and to what End.

First, I take it for granted, that no man *Naturally* and of *Himself*, has a Right Inherent in Himself to exercise Rule and Government over others; and all men as to a *state of Nature* to be Born in the same Degree of *equality* with one another; but yet, that most Men are Born in a state of *Subjection* to some other, comes thus to pass; because Man, being at the Will, Disposal, and Command of His Creatour, who gave Him Life and Existence, and continues it to him, shall be likewise at the Command of *whomsoever* the Creatour shall *transfer a Right* to of Government and Command; and only of Him: So that supposing God not to have transfer'd His Right of Dominion over Man, or any part of it to any else, every Man is born in the same condition and relation of *Equality*, (for though Son-ship doth Oblige to many Offices of Gratitude and Duty, yet not to such a Subjection as we are handling) and consequently, no one is *Naturally* a Servant or Subject, nor any one a Prince, till God hath Invested some Person with an Authority of Governing such a number of Men, and all that shall be born of them. The Inference then is plain, that if men should be *naturally equal*, and no one subject to other, did not God Depute some one Person to Exercise part of his Authority and Government over others; then, that they are not *Equal*, is the effect of God's Appointment; and so all Pre-eminence of Power and Authority, is primarily derived from Him. And that this immediate conclusion from right Reason, is Consonant to *God's Word* (and so must all such of necessity be) I shall quote but one place of Scripture, viz. *Rom. 13. 1. Let every Soul be subject to the Higher Powers, for there is no Power but of God, the Powers that be are Ordained of God, &c.*

This being laid for a Foundation, that all Authority is derived from God; the next Doubt is, how we shall know

know to whom He does derive it, that we may give Him due Obedience, and not be imposed on by Usurpers? And this will best be known, if we consider the several ways, by which *God* Derives this Power to Men: For we may infallibly conclude, that He has no Authority from *God*, who did not receive it by those ways by which *God* Confers it; and that He is *God's* Minister to whom we see Providence has Derived it by some such way, as He makes use of to that purpose: and they are these;

*His own Immediate Choice and Deputation.
Hereditary and Natural Succession of Kindred.
And Election by the Common Votes and Suffrages of any
People.*

Of the first sort, were *Moses*, *Saul*, and *David*; of the second, were *Solomon*, and *Rehoboam*, &c. the last was *Jeroboam*; though *God* had also foretold to Him by His Prophet, that He should be King over Ten Tribes, and accordingly *v. 20. of the 12. Chap. of the 1 of Kings*, *All Israel*, when they had heard that *Jeroboam* was come again, (out of *Egypt*) sent and called Him to the Congregation, and made Him King over *Israel*. Of these three ways of being Inaugurate into the Supreme Power, the First is more Noble and Glorious, for as much as in that, a particular Approbation of the Person by *God* Himself, is the Reason of his Advance; but He who Succeeds as next of Blood, owes it to his good Fortune; and He who is Elected by the People, often to some Policy, whereby He Ingratiated himself; but sometimes to his Vertues: and of the two last, *Hereditary Succession* and *Election*; the former is more Preferable, for the inconveniences it avoids, which Elections subject a Nation to: And besides, one time with another, it has produced as many Examples of Vertue and Ability to Govern, as the other.

The Right of Government then being once by *God* Immediately Transfer'd to any one, after His Decease (unless *God* immediately by Himself Transfer it to any

other, or the Prince do) *Naturally* doth pass to the very *next* of Blood and Kin, and that for these Reasons: Because He who received Authority from God to Govern a People, received it to this end, to procure that peoples Good and Welfare, to the utmost of His Knowledge; which He would never do, if he took not care that the evils of Anarchy, (to prevent which God had Crowned Him,) might likewise be prevented for the future, by translating His Authority at His Death to some other, who might sustain the Government when He was incapable of bearing it Himself; and on this Reason is founded the Axiom in our common Law, *Rex nunquam moritur*. Now because Government doth not only intend the Peoples good, but imply the great Honour and Dignity of Him who bears it; the Prince cannot be supposed to wish so great a Dignity (if he declare not himself to the contrary) to any less than Him who may be reasonably supposed most inward in His Affections the *next* of Kin; and therefore if He die, His silence shall be taken for Consent that the very *next* in Blood is the Person to whom for love and custom sake He Propagates His Right: (by the very *next* of Blood meaning that Person, who is esteemed so by the Vulgar Account of that Nation; Opinions as to *nearness* of Blood, among different People, differing) and that Princes may exercise their Authority in provision for the Future after their Decease, and consequently appoint a Successor, is evident from hence, because the Laws any one of them makes, are not supposed to cease to be so immediately upon his Death, but to retain their full force for ever after, unless a like Authority repeals them.

Before I proceed further, I must speak to an Objection, which possibly may be raised; That to found the Right of Succession to Government in being lineally Descended or next of Blood and Kin, or appointed by Testament, to Succeed to some one, who *Originally*, tracing the Line of Princes backwards, derives His Authority from one who *Immediately* received it, and was *Deputed* to it by God, is to destroy the Right of most or all Princes, who cannot

The Case of Succession.

not derive their Authority from *such* a Predecessor, and that it is to take away the old and common Notion of Supreme Authority, being naturally founded in *Posterity*: I Answer, that I am of Opinion, that *Paternity* or *Father-hood* never did give a Right of *Sovereignty* over Children; that before God *Actually* and *Immediately* constituted Governours, and that, not upon the Account of *Father-hood*, or Men *Chose* some to themselves, or voluntarily upon certain Considerations submitted themselves, there were no such Persons in the World as Kings, or Persons possess'd of *Sovereign Authority*, or pretending to be so merely as *Fathers*: and that if no Prince can trace His Authority backwards to him who received it from God *Himself immediately*, yet he may to him who received it, together with the condition of *Hereditary Succession* for the Future, from God *Immediately*, either by the *Election* of men, for as much as that *first* Predecessor could not Reign without the Consent of People (which is the same thing as Choice) or else to him who took the Advantage of a Forfeiture of their Liberty by some Offence, and so in compensation righted himself by enforcing their Subjection; which is as good a Title to Dominion as any, especially if by After-Acts and Compacts settled and confirmed.

Now, that *Election* of Princes doth Transfer as full and ample Power and Right to Government as any other way whatsoever, (which being prov'd, though all Princes may Succeed to such an One as primarily was *Elected* by the People, will take away all Defect on that account) I Argue thus, that where God doth not *immediately* provide for the safety and welfare of any People by giving them Laws, or a sufficiently authorised Lawgiver; there God, and Nature, and Reason do permit and encourage that People, to procure their own welfare, by what honest means are most conducive to it in their judgment, by choosing or pitching upon a Person or Persons to exercise over them Gods Power and Authority, in order to the publick Good; and the Person so *Elected* Acts by *Gods* Authority not the *Peoples*, forasmuch as all Power

is solely Gods, and therefore no one can Act lawfully as a Governour by any Authority but by Gods, though this Authority may be conveyed to Him *instrumentally* by a Predecessor or the People; and as a Successor in the Government, Acts not by the Authority of His Predecessor who had none *Originally of Himself*, and therefore could not properly give any, (for He Governed not by His *own* Authority, but by *Gods*; and therefore His Successor Acts not by His Authority who had none of his *own*, but by *Gods*, which the other conveyed to Him) so neither may an *Elected* Prince be said to govern by the *Peoples* Authority by whom he was *Elected*, but by *Gods*, who empowred these People by right of Nature and Reason, to Depute or Name one to the Government in order to the publick Good, when he himself did not: And such a Prince is subject or accountable to none but *God*: But if in any Nation the Prince, or He who bears the Title of such, and appears to be so, is accountable to any else, they to whom He is accountable are the *Supreme* Authority, and He only in Name, not really a Prince.

CHAP. II.

That a Disposition in a Prince, proceeding from Opinion or otherwise, to both the Spiritual and Temporal Dammage, and Destruction of a Nation, maketh a Forfeiture of Right to Succession.

HAVING Discours'd of the Principle from whence all Humane Power is Derived, Namely God; and of the several ways by which He Conveys this Authority to Men; that Right and Succession, depends either on the Prince's Will to bestow it on whomsoever He pleases, whether *next* of Kin or not; or, in case of Law. to tye it *precisely* to the *next* of Kin (which still

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is the Princes Will, because his Law) it may depend on the nearness of Alliance, Or, on popular *Election*; the Question lies thus, whether a Prince having *Right* to Succession, by those Laws which tie it up *precisely* to the next in Blood or Kin, may not *Lawfully* and *Rightfully*, for some *Reasons* be Deprived of Succession without *Injury* done to Him, and both *Forfeit* and *lose* his *Right* to Succession? And this we shall be able more clearly to Decide, after having Considered what Qualifications are necessarily requisite in a Prince, and they are these;

First, *To intend and Design the utmost Good of His People both Spiritual and Temporal.*

Secondly, *That Intending and Designing Well, He be not accidentally Disposed either by Opinion or otherwise to both the Spiritual and Temporal Destruction of His People, though contrary to His intent.*

Now, I Assert, that either the want of the *First* of these, or addition of the last, is *sufficient Reason* and Ground to cut off, and alter Succession, and makes *Forfeiture* of *Right* to it, which may be taken without *Injury* or *Wrong* to the Person *so Affected*.

For the Proof of this position, I shall *first* shew, that *Hereditary Right* to Succession is not *of it self* in its own *Nature* *Eternal* or *Unalterable*; and *Secondly*, that the above mentioned Disposition in a Prince, makes a perfect forfeiture of it.

'Tis used by some as an Argument, to prove that a *Right* to Succeed to the Sovereign and Monarchical Authority in *Hereditary Kingdoms* is *unalterable* and *Sacred*; because *Monarchy*, say they, is of *Divine Right*, and the apparent Heir to it, having his *Right* from God, His *Right* is *immoveable*. I Answer, that I acknowledge not only *Monarchy*, but *all other Forms* of Government to be of *Divine Right*: because there is *no Power* but is ordained of God; (so the *Sanhedrim* or great Council among the *Jewes* being an *Aristocracy* was by God Constituted

ted to be, and continued for a long while the *Sovereign Authority on Earth over them*) But deny, that any person, who by *Ordinary Course or Rule*, has a Right to Succession, has it *from God*; for Succession is Determinable, according to the Will of the Supreme Authority on Earth, and then, He who has Right to Succession, has it by *Vertue of those Laws and Determinations* of the Supreme Authority which might otherwise have settled it; and not *from God*, who appointed not Him to Succeed, and therefore, gave Him no right to Succession, but he has it from the Supreme Authority on Earth; in which Authority is comprehended a Power of appointing a Successor, as I before shewed, that is, of giving the Right of Succession to some Person who can receive that Right from none but Him, and may be deprived of it by Him, because he gave it. But supposing (which I need not) that He has his right to Succession *from God*, I deny that he has *therefore an unalterable Right*, because He has his Right from whence He is to have his Power, *from God*; for neither Right nor any thing else is *therefore unchangably appropriated* to any Man, because *God gave it*; for what he gives us, He gives on certain *Conditions*, on the non-observance of which, the thing given may be impropriated and taken from us; so Life, which I think a Man may as properly call his own as any thing, is given on *Condition of obeying God*, else our life is *Forfeited*, and our right to it lost. So that right to Succession is not *unalterable* supposing it is Gods Gift; but contrariwise, is *therefore alterable* because it is Gods Gift, that is, bestowed and granted on certain *Conditions* to be performed, which not performed do Forfeit it: So that *Secondly*, the Heir to Succession having no other *Reason* for His Right to Succession in the *Government*, than there is for *Government* in general, that is, the safety and welfare of Prince and People; if he be so Disposed as to destroy the *Reason of Government*, He likewise loses the *Reason of Right to Succession* in government; because no one has right to succeed in *Government* who destroys the very *Reason* of it, why there should

should be any Government at all, even the safety of the People which was the Foundation and Reason of his Right; and he who hath no Reason for a Right hath no Right at all; and being yet a Subject, (for the very words, *Heir*, and having Right to Succeed, imply, that He is not in actual Possession of the Sovereignty, and therefore in subjection (for between them there is no Medium) He may incur the Forfeiture of every thing he has as a Subject, and so he has the Right of Succession; for, though the *Heir* to one Kingdom may be Sovereign in another, yet is He a Subject in the Kingdom to which he is *Heir*, because he receives Right from another; and such an one is less than Him who gives it, and therefore subject; and if he be a Subject, and byassed from the publick good, he is accountable, and may be Censured with Disinheritance. And this the *Heir* has no great reason to resent in such a Case; For if he be Conscientiously Disposed to both the Spiritual and Temporal Ruine of the Subjects, He then will exact Obedience to many things which they will in Conscience know to be Sins, and therefore, be Obliged not to Obey; and so that Prince, had better never have Assumed the Regal Authority, than in his own Opinion be slighted and disrespected, because Disobeyed in what He Commands (though really it be no Disrespect to be disobeyed in things not within his Command, but the dishonour lies in enjoining them) and be forced to turn the Persecutor of his Subjects, to Vindicate the Honour of himself and Commands, and leave his Name to stink upon Earth.

But neither is the Person so Disinherited at all Injured; for, Injury implies Violence to Right, which I have prov'd he Forfeited, and therefore, That Proceeding just; the whole Argument I will thus sum up: He who is a Subject, (and so is every *Heir* to the Supreme Power as *Heir*, as I hinted before) is in a capacity of offending the Supreme Power, and then of being punished: He may offend against the present Sovereigns Authority and care of providing for the future welfare of his

people, by intending and purposing to do such things as would hereafter prove *extreamly* Damageable and Destructive to the Nation; and if He offend in this kind, a more *proper* Punishment cannot be applied to Him than such an one as will *prevent* those Mischiefs, the *designing* of which brings Him to punishment, and that is *Disinheritance*; for Civil Punishments ought not properly to be Vindicative, but remedies for *preventing* Mischief: Or, if *His* Intentions and Designs are not evident by any *Hint* or *Prospect* He has given of them by *Words* or *Actions*, yet if his *Prepossessions*, which *Himself* owns, are such as *Naturally* and *Necessarily* tend and lead him to such Designs and Intentions, as being most *nearly* conjoyned with them, though *outwardly* He makes no *Declaration* of His intentions; He is, as far as Reason can judg, most dangerously Affected, and incapable to attain the end of Government, the general Welfare; Nay, will hereafter, as far as Men can see, do that, which will be *Destructive* to their Welfare, the end of Government, insomuch as it were the *same thing* if they had *none*: Now, He who destroys the end of Government, doth as ill as destroying Government it self, but since that ought to be *Eternal*, for the same Reason it ever had a beginning, He Forfeits His Right to it, who is disposed to a Nations *extreme Hazard* or *Destruction*, to *prevent all which* is the *only Reason* he should Succeed in the Government, and that there should be *any such thing at all*; which if He will not only not prevent, but is the Person who brings it about, there is no Reason He should Succeed in the Government, he has made a *Forfeiture* of His Right.

CHAP. III.

That the Forfeiture is made to the Supreme Authority; That it is none unless it be taken Advantage of, whilst He continues a Subject; but that a Prince once Possess of the Supreme Power, cannot be Deposed; That the same Reasons, which Warrant to take the Forfeiture of Him, whilst Heir, if it be not taken then, are afterwards of no Force against Him.

I Above put the Power of Designing a Successor, either at Pleasure, or else by some fixed standing Rule and Law, in the Supreme Authority; and therefore, if the Designed Successor make Forfeiture of his Right, it can be to none but Him who conveyed it to Him, His Superiour, for none else could Convey it to him; And for another Reason, the Forfeiture must be made to the Supreme Authority, because the Care of the Future Welfare and Safety of the Subjects, against which He was Disposed, belongs properly to the Supreme Magistrate, and therefore the power of preventing future Mischiefs and taking the Forfeiture, which is the way to prevent, doth reside solely in Him. For although it cannot be denied, but that the People are mainly Concerned in a matter of that Weight, as is their Spiritual and Temporal Welfare, and so might seem sufficiently warranted of themselves to provide for their own safety, as is every one Naturally; Yet may they use only such Means as are to them Lawful, and as may not prove as Great or greater Inconveniences than the thing they would avoid; and what such are, I shall presently shew.

Every one Naturally hath a Power and Right to pre-

preserve himself, not only by *Avoiding*, or *Flying* from that which actually Assaults Him, but by *standing* and *defending* Himself against it, Nay, by *Offending* and *Assaulting* that; for the others Violence being *Arbitrary*, that is, exercised by One who had no Right or Authority ~~to do, was Unjust~~, and might therefore not only be *Resisted*, but returned in the *same Degree* according to the just and natural Laws of *Retaliation*, and that even *Immediately*, and by the private hand of the *Person Assaulted*, forasmuch as the *imminent* danger could not admit of the *delay* of expecting a publick *Determination*: but in case, one be not *actually* Assaulted (I speak of private Persons,) it is not lawful either to *Kill* or *Bind* Him, who you *suspect* will be the Aggressor, but to *fly* from him is *Lawful*, Or, to endeavour to persuade him who bears *Authority* over Him, to take away His Arms, or confine him, or make him give *Security* for his keeping the *Peace*; by *this* way of prevention, for any one to provide for his own safety, is not only *Lawful*, but *Prudent* and *Commendable*: So in case a Nation fear the *future Practices* of Him who is now *Heir*, they may forecast a *prevention*, by engaging and obtaining of Him, under whose *Authority* He is, to *tye* him up by such *Rules* and *Laws*, as will put it without his *Power* to *Effect* the dreaded *Mischief*; or by *utterly* and *totally* removing Him out of that *Place* and *Capacity*, in which alone he can hurt them: But they themselves have not *sufficient Authority* to *tye* Him up by *Laws*, or *Disinherit* Him, and therefore cannot do it without *Injury*; and if it so come to pass, that the *Supreme Authority* will suffer him, whom you suspect will *Murder* You, to bear Arms, and will not confine Him; if He Assaults you, being a *private Man*, you have the power of *defending* your self; but if the *Supreme Magistrate* will appoint a *Successor* over a Nation, who that Nation has good reason to suspect will endanger their *Lives* and *Fortunes*, and *Corrupt* them in their *Religion*, to the hazard of their *Souls*, they have done *all* that *lawfully* they may, for preventing
that

that Succession; but Violently and of their own Authority (which is none) to go about to Disinherit, or Alter the Succession, upon pretence that the Injury done to him is not comparable to the Mischiefs and Injuries prevented; (which though true enough, and there want nothing but a competent Authority to alter the Succession without Injury, to the Person Disinherited) yet still, it remaining an Injury because they do it who have not sufficient Authority, it is a breach of the Lawes of Christianity, which allows not evil to be done that good may come of it, or evil be prevented: And supposing my self to speak to Christians, I hope the Laws of our Religion will be judged to Oblige them, as much as any Civil Lawes whatsoever, for Christians ought to suffer Injury rather than do any.

Having then proved this Forfeiture to be made to the Supreme Authority, that the Care and Power of preventing those foreboded Mischiefs resides only in it, the Subject ought in Prudence, and Duty to himself, to endeavour their prevention by moving the Supreme Authority to prevent them, but not otherwise; and if he foresees no remedy, ought to Arm his Conscience from Corruption in Religion and the Spiritual Danger, and his resolution to suffer under the Temporal, and bear Injury when it cannot without Sin be prevented or Opposed: And this submission is not only necessarily enforced from the Principles of Christianity, but grounded upon Civil and State-Policy; for if it were in the Peoples Power to Disinherit whom they would, no Person could ever Succeed, from whom the Multitude might not have Assurance of being Complied with, in what they pleased; and Mens desires being sometimes Extravagant and Sinful, great Inconveniences must needs ensue too the Government by the allowance of them; frequently to a Successor might be Disinherited by the Faction or ill Disposition of the most, by reason of false and scandalous Imputations, which they can hear and believe, but not disprove; or on purpose, which is sometimes very Bewitching, to shew their Power: and this must needs make a Govern-

ment *unsettled*, and dispose it to *Anarchy*, *Ruin* and *Destruction*. Now, upon reflection of the *inconveniences* of a Power in the People to *Disinherit*, and of those which sometimes may happen for want of *that Power* in them, when the *Ordinary* Supreme Authority which hath Power will not exercise it upon a *due Occasion*; some Men may possibly fall into a *Rage*, accusing their ill Fortune which *unavoidably* subjects them to Misery on both sides; and Him, who *having Power* will not use it to secure them from the dangers they fear; but if they consider that He who refuses to Gratify them in this, cannot be imagined not to *wish & intend* his Peoples good as much as his own, and several wayes *formerly* has procured it, they have no reason to be disaffected to Him for this, since the Cause of his refusal to comply, must be either that he is *not so apprehensive* of the danger they Dread, and sees *no Reason* so to be; or if he be as *apprehensive* as they, yet perhaps he thinks it not *within his Power* to deprive the *next Legal Heir* of Succeeding without *injury*, forasmuch as He judges his *personal* Affection or Disposition to any *Opinion* or *Religion*, cannot alter and take away his Right; and either, or both these being the Motives which with-hold Him from proceeding as he is desired, and both pertaining to *Conscience*, which he must satisfy as well as other Men; besides, the Consideration of the *Kings Heart* being in the *Hand of God*, and particularly directed and turned by His Providence, His Subjects ought to submit to and Acquiesce in his Pleasure; and so no remedy, but Succeed he must, and the *Forfeiture*, not being taken Advantage of whilst he remained a *Subject*, after He is once *Possess* of the *Supreme Authority*, cannot then be taken: For, although that Disposition which *Forfeited* his Right to *Succession* when He was *Heir*, may seem to *Forfeit* his Right to *Actual Possession*, because no one has a Right to be *Possess* of that which he had no Right to take into *His Possession*; yet the Condition of this *Forfeiture* is such, that, *not being taken*, the Supreme Magistrate is supposed *not to have judged it a Forfeiture*; and

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it belonging properly to his Cognizance to determine, whether it were or no, what he judged *was* no Forfeiture that he did not take for one, and what He did not take, when he is Dead, no one can take for Him, if to no one he Delegated Authority so to do; and if a Forfeiture is made to a *Superiour*, and the Supreme Magistrate neither by *himself* nor *Delegate* did take it, no one being *Superiour* to the Succeeding *Heir*, no one may take it, either by forcible *hindring* him to Succeed, or *Warring against*, or *Deposing* Him when He is posselt; for the *Crown* once worn taking away all *Defects*, as say the Lawyers, and that passing over to the *Heir* immediately upon the expiration of the Predecessor, all *Previous Forfeitures* or *present Indispositions* are of no force against Him, because there is none on Earth *Sufficiently* Authorised to take advantage of them. God indeed, if he pleases, by Interposing his *Immediate Command*, may depose Him; I mean not on the account of His *Supreme Intendency* over all the World, (for so He may depose a Prince though he be not so evilly affected) but according to the rules of *Justice* and *Reason*, as an Offender against Him whose Substitute he is, by overthrowing the *Ends of Government*: but this God rarely doth; for although Saul for his grievous Offences were rejected by God, yet suffered he Him to live and dye a King without proceeding to *actual Deposition*, although Samuel had told Him from God, that the Kingdom of *Israel* was rent from him, that is, from his Tribe and Family.

If it be Objected, That though the Predecessor by a *particular* application of his Will did not take the forfeiture, because he did not see it, or believed it not; Yet *generally* he must be supposed to *Will* and *Design* the taking it, forasmuch as he *Wills* and *Designs* the Publick wellfare; and so, though not by a *Special Act*, Yet by his *General Intention* of the Peoples good He must be supposed to have taken the advantage of it.

I answer, That this will not stand good in *Policy*, as it may do in many other things; because such a belief would put it in the *Peoples Power* at their pleasure to

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Disinherit and *Dethrone* whomsoever they would, forasmuch as they might frequently upon Distaste, pretend him to have made a *Forfeiture*, who made none, and so depose him under the Colour of the Predecessor's *Implicit* and *General* Will to *Disinherit* him: and this is so great an *Inconvenience* and *Danger* to the Publick, that it's far more eligible to run the hazard of *Sometimes* having a *bad* Prince, than of having *good ones* turned off *as bad*, or of suffering such ill Consequences as War, and Bloodshed, and an Unsettled Kingdom, which must attend an attempt to depose *even bad Ones*, since there is no one but has some Adherents. The Scriptures command Servants Obedience not only to Gentle, but froward Masters; Applaud Suffering *Wrongfully*; and the Primitive Christians did so, even when they were strong enough to resist, and the Souldiers were content to be decimated, and to lay down their Armes, to be *wrongfully* put to Death, that is for a cause not deserving Death; for professing the Christian Religion; which plainly proves that both the Apostles, and Primitive Christians, who were as well Catechised in the Principles of Religion as we can pretend to be, thought it an Article of their Faith, that it was not lawful for Subjects to *Depose* or *Resist* the cruelest Tyrants, though endeavouring their *Spiritual* destruction by obliging them to Idolatry, and their *Temporal* by Proscribing them, by Imprisoning and Murthering them if they refused: and this we call *Passive Obedience*, that is, submitting to the Supreme Authority's pleasure even when we are *Injured* rather than Rebel against Him. And thus much to shew, that if the Heir be not *Disinherited* *whilst He remains so*, it will afterwards be too late, and in reason and justice *Impossible*.

CHAP. IV.

That Mens Throwing themselves wholly upon Providence for Averting these Mischiefs, without making use of Rational, and Moral Means to prevent them, is Unreasonable, and Absurd.

THe Country-man in the Fable who called upon *Hercules*, to draw His Cart out of the Mire in which it was set, was bid to apply His own Shoulders to it, and thrust, if he would have it out. Many there are, who *Idely* rely upon Providence to save them from the Dangers they foresee, but will not step a foot themselves, or use the least Industry and Care for preventing those Evils; and because nothing comes to pass without Gods *Permission*, imagine therefore that nothing is done without His *Appointment*; and on this account leave it wholly to him to Provide for their Safety.

But this *careless Opinion* I much dislike; because it often brings Men into Misery, by making them to neglect those Means for their Safety which God frequently puts into *their own hands*, and so they are undone for want of Care, for presuming God will Save them without the least of their Caution and Circumspection. Nay, sometimes there may be some, whose *Honours, Lives and Fortunes*, must stand or fall with a *present Condition* of a Nation; who know in their Hearts, and are sure, if the Times turn, unless they will turn with them (which 'tis Reasonable many times to believe they may not) they must lose both *Lives and Fortunes*, and the *Spiritual Welfare* of all the Subjects be *Endangered*; yet they are not content *not to endeavour the Disinheriting* a Successor, with whom all this Mischief comes in, upon a Scruple, that such a Disinheriting is Un-lawful; are not content

tent fairly to give way to such a Successor without *Opposition*; but are His *best Friends*, Court and Complement Him most at every turn, and take occasion from their Opinion of the *unlawfulness* to *Disinherit* Him, to be the *strongest maintainers* of Him; which is both Imprudent and unreasonable Flattery; drudging for one who Laughs at their Sedulousness to their own Ruin. In any Nation, if there be any in such a case so mad, they must not think themselves e're the Honefter and Wiser for *Courting* their own Destructions; submit one would, where it was *unlawful to resist*, but not *invite* Him who was to do one a *Milcheif*.

'Tis to be Confessed, that *Disinheriting* a Prince, *perverting* the *Lineal Succession*, is a dangerous Precedent, because of the ill Consequences it may draw with it; the Right of Succession ought to be Sacred, and not toucht or medled with, but with the greatest Reverence and Caution, and upon weighty Considerations; but when once People have prevailed on a Prince, to *Disinherit* a Legal Heir for *real and great Causes*, they may often afterwards prove humourfom; and sometime for *no Causes*, or *not equal*, exact and require the doing of it, because they have an *Example and Precedent*: This, I say, is a great inconvenience, but is unavoidable; because, as long as Men are Men, they will be subject to Faults; but yet I suppose it not Impossible, but such Laws and Rules may be stated and provided, whereby to procede in such Cases, as would much *Alleviate* this inconvenience: But shall leave that to Wiser Heads to Determine what they must be. And so much of the *First Question*.

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The Second Question.

Whether some certain *Politick* Reasons may not be alone sufficient Grounds of *Divorce*?

CHAP. I.

Of Marriage, its Institution, Ends, and Obligation: Of its special Rights and Privileges in the State of Christianity.

I Am very Sensible, this *Second* Question carries so much the more Difficulty than the *First*, as it has been less Controverted, and consequently less Understood; that it lies under a far greater Disadvantage, by reason of the many more *Actually* Interested and concerned in it; the *Right of Marriage* being more Mens, than is *Right to Succession* and *Heirship* in Government, and they generally Prejudicated in their Opinions about it; And lastly, so much the harder Case, as it concerns the *Dispossession* of those who are *Actually* in Possession of a Right, and so owned to be; but the other only the prevention of Succeeding into such *Actual* Possession. But in order to its Discussion, I will proceed in the same Method I used in the *First*, that by inquiring into its Institution, Rights, and Ends, we may better judge of the true Causes of its Dissolution.

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The Institution of Marriage seems not to have been *Occasional* and by accident, as the appointment of most things by God was, but *Cotemporary* with the very Creation, and Formation of man it self; so that He was no sooner shaped into the form of Body which we see he has, but he seemed to be *Incomplete* and *Solitary*, till such a Companion were given him; for the use and enjoyment of which, in order to another end, *Procreation*, His Body both in its inward and outward Fabrick, provision and design of Nature appeared to have been *purposely* Framed, and by it self, as to that end, to be *useless* and *imperfect*: Nay, Marriage must have been Instituted, and Pre-ordained, even *before* Mans Creation; for if God, when He said, *Let Us make Man*, had an *Exemplar* or *Idea* before Him, of what manner of Creature He was about to make, He then both saw, that the Creature He should make according to that Pattern, would want such a Companion, because of his inability to *procreate* without Her; and yet, for which *Procreation* his Body appeared *purposely* Designed, by reason of its *proper*, *natural*, and *convenient* Composure for it; Nay, further, *Designedly* and *on Purpose* made him such a Creature, as should have such a Companion in order to *Procreation*, because else, all that Aptitude and Structure which now *serves* to that end, would have been *useless*; and God have done, what He and Nature never do, *something in vain*.

Now the Institution, or Reason of Ordaining Marriage, depending on its *End*; and its Immediate, and Natural End, being *Procreation* and *Propagation* of a *Species* of Creatures, and Man's Body apt and suitable for such Procreation, at the *Moment* of His formation *Completed*; it follows, that at the *Moment* of his formation *Completed*, when he was an apt, and fit Creature for the End of Marriage, *Procreation*, the Institution of Marriage, if not before, yet then Commenc'd; because the *Natural* Frame of Man, did *Necessarily* suppose such a thing as *Marriage*; and therefore, its Institution was *Original* and *Natural*; not *Occasional*: it was designed by
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Nature, it self, and therefore needed not to be Instituted with any formal Ceremony, Law, or Circumstance whatsoever. I confess, that a secondary end of Marriage, namely mutual Society, help and Comfort, seems to have been Occasional: for after God had made Man, and placed Him in the Garden, He said, Gen. 2. 18. *That it was not good that Man should be alone, that He would make Him an Help meet for Him;* as if, upon consideration of his Solitariness, as having no Creature capable of Conversing with Him, He resolved for remedy of that evil, to give Him a Wife: and Adam in the 23 ver. of that Chap. gives another Reason, why a Man should leave his Father and Mother, and cleave to his Wife; because she was taken out of Him, was *Bone of his Bone, and Flesh of his Flesh;* not that this was the only Reason of Marriage, because Woman was taken out of Man; but that it should be a strong Motive of Love and Inclination to Woman, because she was a piece of Man himself, and therefore He should prefer Her before the Dear Relations of Father and Mother. By which very words, *Father and Mother*, Adam seems to have understood the end of Marriage to be Procreation, and what Procreation was; else He could not have known what the words *Father and Mother* signify; unless you will suppose those Words not Adams, but the Holy Pen-mans by a Prolepsis. From what has been said, 'tis clear, that the two great Ends of Marriage are Procreation, and mutual help; and that He who Marries, is Obliged to intend none other but those Ends.

Having shewed, that the Institution of Marriage was Contemporary with Mans first Creation, that the natural Disposition and Frame of Mans Body, was its very Institution in Nature it self, without further Ceremony, Law, or Circumstance, that Adams Marriage was Consummate, and Perfect without such; yet now since the World is Increased, there is something more requisit to be done, I mean, as to the Contracting, and Solemnization of Matrimony. For when there were none in the VWorld but one Man and one VWoman, and both naturally loving one another, Circumstance and Ceremony were needless, since they are

significant only of our minds to others, but there being no others but themselves, and their minds *sufficiently* known to one another, from the very inclinations and dispositions of Nature, as Man and Woman in *general*, and there being no other Woman for Him to take, or Man for Her; I say, neither Nature nor Reason could require *Circumstance* and *Ceremony* as convenient or useful: but now they must be used as signs and tokens of *Consent*, that such a *particular Man and Woman* do agree to Marriage, and to prevent Defrauding one another by *denying* the Marriage, (which, if done in secret between themselves only, either might) and to prevent any ones wronging of either, by *intruding* upon the *Right* of either; which is better secured and known, by being *Publick* and *Solemn*, and Acted before *Witness*. Further, because all words do not *equally* express Consent, but some more, some less; 'tis likewise convenient, a *determined form* of words, whereby to express Consent validly, should be Authorized, and so all refuge to *Equivocation*, and *dubious Interpretation* of former Promises might be avoided. And to the end, that the Persons consenting to Marriage, might have the stronger Obligation to stand to their Promise, it was thought fit, they should mutually Promise each other, as far as lies in their Power, *before God Himself*, in the Presence and Hearing of one of his Ministers.

So then, the Ends and Reasons of Marriage, is *Procreation* and *mutual Help*; an inducing Motive is the *natural Love* Man and Woman bare to each other, as being originally Flesh of one anothers Flesh; the Essence or Actual Contract of it consists in *Consent*, and several *outward Circumstances*, are requisite for its Confirmation *ad extra*, and may not *ordinarily* be neglected without fault, because they are *wholesome* and *useful* Appointments.

I have been the longer on this Head, because the Notion of any thing being first clearly and at large laid down, 'tis easier after to pass a judgment on it; and that I may pass by nothing which concerns it, I shall

shall Observe what Advantages and Privileges *Christianity* has raised it to, beyond what it has in *Nature*, or in *Judaism*. It is become the *Representation* of that Holy Union, Love and Obedience, which is betwixt *Christ* and His *Church*, and therefore is accounted now a more honourable Estate than formerly; forasmuch as neither the *Jews* nor *Heathens* tied themselves up to *strict Marriages*, but using *Polygamy*, did, as it were, prostitute and dishonour the Marriage-Bed, which became thus common to many; but now the Marriage of two Persons during Life, is enobled and recommended by that Similitude of *Christ* and His *Church*; the first owning *no other Spouse*, the last *no other Lord*: Besides, that Marriage is not now so easily *dissoluble* as among the *Jews*, nor for such slight Reasons; and lastly, there lies now an Obligation on each, to Procure, as far as they can, not only the others *Temporal*, but *Spiritual* Comfort and VVelfare. And so much for the Nature, Institution, and Duties of Marriage.

CHAP. II.

What is *DIVORCE*?

What are Sufficient Reasons of Divorce; and the Words of Our Saviour? St. Matth. 5. 31, 32. and Chap. 19. vers. 9. and elsewhere, about Divorce, only for the cause of Adultery and Fornication, Considered and Explained.

MArriage, although so strait an Union as nothing more, yet admits of a *Dissolution*, commonly called *Divorce*; that is, a Separation of both Man and VVoman, so as to return into the very condition of *Liberty*, and *Singleness of Life*, in which they were

were before their Marriage; but this, not lightly, but on great weighty and high Considerations: And this is by the By to be observed, that every Separation of Man and VWoman after Matrimony *outwardly* Solemnized between them is not *properly* Divorce; for Divorce is only a Separation of Persons, who according to the *intent* of outward Solemnization, were *really and perfectly* in a state of Marriage, and that, so as to return into a state of *utter Disobligation* or *Non relation* one to the other: but a Separation of Persons not *perfectly* Married, or of Persons Married if *not for ever*, so as both shall remain disengaged, is not *properly* Divorce. When therefore two Persons are Separated and Disjoyned, because the one is *naturally Impotent*; that is, in Body *not Perfect* Man or VWoman, (for by *natural Impotency*, Age, VWeakness, or Barrenness is not to be understood; for they are to be born with; but an *imperfect* or *monstrous* Body.) Such Separation I say, is not *properly* Divorce, because none are Divorced but *Husband and Wife*, and such were not they: For since none are *Husband and Wife*, but they who are *perfectly* Married; and the *firm Contract* of Marriage depend not only on the *Consent* of the Parties, and *Solemnization*, but on a *supposition* that they are what they are taken to be; that is, *perfect* Man or Woman; (for Marriage supposes the joyning of such together) if either be *naturally Impotent*, that is, not *perfectly* Man or VWoman, the other is imposed on, and the *Consent* of that Person to have married a *Man or Woman*, shall not be adjudged Valid, so as to imply that Persons *Consent* to Oblige to Cohabitation, with one who is *not Man or Woman*, whom alone that Person *did Consent and intend* to have in Marriage; and therefore, such are not joyned together by *God and Nature*, since Nature Abhors such a *Conjunction*; but without more adoe, are *Actually Single*.

Secondly, If for other Reasons, a Man and VWoman *perfectly so*, and Married, do Part; that parting is not a *real* Divorce, so as to be Disengaged from each other; for this St. Paul, 1 Cor. 7. 10, 11. *And unto the Married I*

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Command; yet not I, but the Lord; Let not the Wife depart from Her Husband, but and if she Depart, let her remain unmarried, or be reconciled to her Husband; and let not the Husband put away his Wife: In which place St. Paul first Exhorts, that there be no Separation between Man and Wife, that is, that they should not *Disagree*, so as to part from one another; but if such a Case ever happens; that their Separation for such a Reason, is not Divorce, doth not dis-unite them, but that the Woman continues the Mans Wife still, notwithstanding this Separation, and ought not to marry any one else, but that a Reconciliation should be Endeavoured, and both return to each other: but by the last words, *Let not the Husband put away his Wife*, is not to be understood, as if a Man might by no means, for no Cause, Totally Divorce his Wife; for even our Saviour allows Adultery and Fornication to be a sufficient Cause; Matth. 5. 32. and 19. 9. &c. In the first place in these Words, I say unto you that whosoever shall put away his Wife, saving for the Cause of Fornication, causeth Her to commit Adultery; and whosoever shall Marry her that is Divorced, committeth Adultery: In the last place thus, I say unto you, whosoever shall put away his Wife, except it be for Fornication, and shall Marry another, Committeth Adultery; and who so Marrieth her which is put away, doth Commit Adultery: which Exception of the Case of Adultery, plainly Proves, that Divorce for some Cause is Lawful, namely for that.

But because these Places are generally understood in that rigid Sence, which the Words without due Attention, seem to bear, as if no other Cause whatsoever but Adultery and Fornication in the Woman, is sufficient Cause of a Total Divorce, and so 'tis impossible that my Politick Reasons should be sufficient Cause; I shall clear the Sence and Meaning of the Words, First, Observing, that even Adultery it self is partly a Politick Reason of Divorce; forasmuch as Marriage is Instituted for Propagation, and that is mischiev'd, and hindred by nothing more, than promiscuous Embraces; and thence Accrues great Damage to a Common-Wealth, and its politick Good. Besides, if

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the Woman do sometimes prove with Child, it being possibly anothers, it shall however be obruded on the Mothers Husband to Maintain: She then who is found Guilty of this high Crime, shall be *Finally* Dismiss, as one who perverts and hinders the end of Marriage, and endamages the *publck* if she have not Children; and if she have, greatly *injures* her Husband, both by disposing of her self to another, who was *Rightfully* only His, and probably burthens Him with what ought naturally to be anothers Charge. But to clear the Sence of the above Cited Places.

In the 19. of St. *Mat.* Ver. 3. we have the Pharisees coming to our Lord, and tempting him, by proposing a Branch of *Moses's* Law, to try whether he would contradict it; and then they had sufficient reason of Accusation against him they thought. They Asked him; Whether it were Lawful for a Man to put away his Wife for *Every Cause*, according to what is written in *Deut.* 24. 1. *When a Man hath taken a Wife, and Married Her, and it come to pass, that she find no favour in his Eyes, because He hath found some Uncleanness in Her, then let him write her a Bill of Divorcement, and give it her in her Hand, and send her out of his House.* The Law gave License to put away Wives for *Every Cause*, for every Dislike; for not finding Favour in their Husbands eyes, for no greater cause than not pleasing their Humour: What thinkest Thou, Is it Lawful or Agreeable to the Rules of *Equity and Reason*, as well as to the strict Letter of the *Law*? And this Their Question he thus in effect Answers: That such Reasons as these, for which *Moses* allowed the *Jews* to put away their Wives, were not Reasonable nor Equitable, but Extorted from him by them, whose hardness of Heart would be content with nothing less; and therefore it was better the Law should be Remitted, and so their hardness become more pardonable, as not being an Offence against any *Positive Law*, but allowed of: But for the future, Divorce shall not be Lawful for any of those *Petty Reasons*, but for no less than *Adultery*, which the Law judged so

so Heinous, as to punish with *Death it self*; but, as all Rigors in the Gospel are Mitigated, so now *Adultery* shall be punishable only with *Divorce*; or else, because the Jews now cannot put any Man to Death, have lost *Jus vita & necis*; they shall punish it by *Divorce*, which remains in their power. The whole Scope and Design of which Answer, I judge to be This; That the Jewish Rigor and *Moroseness* of Divorcing their Wives for every petty *Dislike* he did not only not approve, but hereafter would not have *Adultery* it self punished so severely as formerly, with *Death*, but only with *Divorce*; and that *Divorce* was punishment great enough for *Adultery*; and that *nothing less* than *Adultery* does deserve to be, & must in the Gospel-state be punished with *Divorce*. And that this Answer does not suppose, but that *Offences as great as Adultery*, may deserve it as well as *Adultery*; nor deny, but *some Offences may be as great as Adultery*, I have this Reason to think; because, in the 6th. *Verse*, Christ sayes of Man and Wife, *That they are no more Twain, but One Flesh*, and that *Man should not put asunder what God had joyned together*; which being generally spoken of all Husbands and Wives; (for, *All God hath Joyned together*) one might conclude, that because *All Husbands and Wives are joyned together by God*, and no man must put asunder what *God has joyned*; therefore it is not Lawful to put them asunder for any Cause whatsoever, no not for *Adultery*, because *God did once joyn them together*; which being contradictory to the *Permission* he gives afterwards, for the cause of *Adultery*, plainly shews, those words are not to be understood in a strict and literal Sence, which excludes even the cause of *Adultery*. And therefore it is reasonable to suspect, That its not being Lawful to *Divorce but for the Cause of Adultery only*, is not either strictly and literally to be understood of *Adultery*, and only that; but that *nothing less than Adultery* is a sufficient cause, not denying, but *something may be as great*. I shall state a Case, which I will leave others to Judge, whether it be as Great or no.

Suppose two Persons of different Religions Married,
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and one by the *avowed necessary* and *immutable* Principles of His or Her Religion, *firmly* Believes the other to be in a State of *Hereſy*, *Damnation*, and *Enmity to God* and true Religion, and that Faith may *lawfully* be broke with that Perſon; that 'tis *Lawful*, *Nay*, highly *Commendable* to murder that Perſon, becauſe His or Her Religion, by this Act, is according to all *moral Certainty*, ſure to be *Propagated*; which to promote, as far as in this Perſon lies, is an *indispensable Duty*; and to compaſs, is to reſcue Multitudes of Souls from Hell, and to cover and expiate for all this Perſons private Sins, and to ſecure to Him or Her ſelf Heaven and Gods Favour, by ſo meritorious an Act: that there is no other *probable way* of effecting this great VVork but by this means; that to die in the Attempt, or failing of Succeſs to be afterwards put to Death for it, is a moſt glorious *Martyrdom*. I ſhould think a Perſon in the ſame Kingdom, City, Houſe, but much more *Bed*, with ſuch an one, to be very un-ſecure; and if the Perſon eſcapes, it can be Attributed to nothing but the others *extreme Faint-Heartedneſs*, which one can ſcarce Imagine any guilty of, who is prepoſſeſt by ſuch winning, prevailing, and ſtrong Motives, as theſe I have been mentioning: And therefore, between a Sinful, Amorous and Adulterous Love of a Stranger, if it remain ſtill *within the Heart*, and has not proceeded to *Actual* Commiſſion; and ſuch Principles as believing it *Lawful* and *Meritorious* to Murder an Husband or wife, as to the Influence they have on Marriage in order to *Difſolution*, there is no other difference but this; That a Man muſt expect the *Actual* Commiſſion of Adultery, the bare *intention* or *deſire* of which is not *ſufficient* Cauſe of Divorce; beſides, that it proceeds not from a *Vowed Principle*, that 'tis *Lawful* and *Commendable* ſo to do, and therefore that intention may alter; but the imminent danger from thoſe other Principles as fixt and *unalterable*, will not admit of that Delay until the Faſt be Committed. Separation therefore from ſuch a Perſon, as to all Society and Converſe, is *immediatly Neceſſary*, and *alway*s, is *Natural* and agreeable to Reason,

Reason, forasmuch as 'tis for the *preservation* of Life; and a Separation warranted by Reason to be *perpetual*, cannot suppose any mutual Obligation, Tye or Relation whatsoever in Reason to *remain* between them whom good and justifiable Reasons have *perpetually* Separated; and therefore being thus Separated, not *accidentally*, but by *moral and reasonable Necessity*, there shall not remain an Obligation to the Person so *Necessitated* to *remain Bound* to the other in the Tye of Marriage; the Duties of which 'tis impossible for one to Satisfy and Perform, 'because it is *absolutely* rendred *useless* by the other: and for disengagement in such a Case as this, there is both *Ground* and *Countenance* in Scripture; we have these Words in the 15 Ver. of the 7 Chap. of the 1 Epistle to the Corinth. *But if the Unbelieving depart, let Him depart; a Brother or Sister is not under Bondage in such a Case:* Whence I argue thus, if upon the voluntary Departure of a barely *Unbelieving* Husband or Wife, either from other, neither is so tyed up, but that in such a case of Separation and Departure, a Christian is not in Bondage; that is, remains not Obligated under the Yoke of that Marriage which the other by final Departing, has *Dissolved*, but may Marry; Shall not then the *Necessitated sending away or Dismission* of a Person for the Reasons I have mentioned (since 'tis the same thing, whether a Person depart voluntarily, or force himself to be sent away, because the person who caused the Separation must be judged to depart)? Shall not such a *Necessity* release a *Brother or Sister*, a Christian, from being bound, and leave Him or Her at their *Liberty* to Marry if they please? The only difficulty is, whether one Person believes the other to be *thoroughly* so Principled or Perswaded, as that Religion of which that Person is a Member, teaches, and as is *necessary* to justify the Divorce.

CHAP. III.

Whether the Case of Princes Marriages be the same with private Mens; And whether they are not sometimes Extraordinarily Indulged and Dispenced with by God ?

IF the Case, I in the last Chapter put, were a Prince, no doubt but that would Aggravate it with Circumstances, as peculiar to Princes as is their Character and Authority; For a Prince being not only an Husband but a Sovereign, such Principles would be more than doubly Pernicious, because they are directed against a Person, who is not only in a twofold Capacity, and therefore doubly Injured, but likewise, because imagining or believing the Destruction of a Prince to be Lawful, is it self an higher Crime than the same belief concerning a private man; because His Right in his Wife as His Subject is more immediate from God and Absolute, than as he is Her Husband; the Right of Dominion being greater than that of Propriety and Use. Besides, the endangering such a Person is not Confined to His own Detriment, but involves all his Subjects in it, as those whose Welfare depends on their Head and Protector; and either the utter Ruin, or extreme Danger of the whole Nation attends His Destruction, especially in the Case of being morally certain after His Death, to be both Spiritually and Temporally enthralled: And therefore, such a Case would so much the more warrant a Divorce, as the breach of a far greater Obligation is more notorious, and of more dangerous Consequence, and less capable of Delay, and a stronger and more necessitating Reason to put her away, supposing the Wife to be so Principled as to give just Occasion of such fear and necessity. 'Tis possible, I confess, that one Externally of such or such a Profession may

may not be so in *Heart*, or may not be seasoned with those Doctrines which the *Presidents* of that Religion judg too *apparently* startling to Communicate to some of their Disciples : but nothing there is but may be suspected and feared from some mens *Importunity*, *Cunning*, *Boldness* and *Impudence*. But I will not Insist upon this supposed Case any longer, which under all these Aggravations must needs imply the *Lawsfulness* of Divorce, which I think I can infer *Allowable* in a Case more moderate, and of *less* evil Aspect. For I will imagine the Consort not so dangerously disposed and affected, nor to Design any such thing ; but that the Prince having no Heir of his Body, to Succeed, to be Instructed in such a Religion and Principles, as will incline Him to procure the Peoples real good, and that such a destructive and dangerous Religion naturally falls in with him who is the *presumptive Heir*, as they call it, that is the next of Blood or Kin for want of a *nigher* ; and that this Princess or Queen never had, nor, *morally speaking*, ever can have, and bring forth an Heir to be so Instructed and Succeed ; and this Conjecture for the *Future*, grounded on the *time past* ; because she had none then when it was more probable and natural, and without such an Heir so much danger and destruction imminent ; the Case thus Stated, I say, *prevention* of Mischief, which could not give the People Authority to Depose a Prince, because though they may be *Injured* by Him, yet they never can have Authority to vindicate themselves against Him ; will however give a Prince, who has a full Authority over all, Power and Warrant to Divorce a Wife, as being unavoidably and necessarily forced thereto, though not by Her self, or own Principles, yet so accidentally, as is inseparable from Her Marriage ; and this necessity is unavoidable, because 'tis absurd, that a Prince should suffer His People to incur such great danger and destruction knowingly, upon any pretence whatsoever, and therefore is not to be supposed : For the Christian Maxim of *not doing Evil that Good may come of it*, would be mis-appli'd here ; for, a private Interest or good standing in Competition with

with the *publick*, ceases to be a real Right if *inconsistent* with the *publick*, inasmuch as every Subject doth *implicitly* and *tacitly* relinquish His Right, Possession and Pretentions to every thing which cannot consist with the Common Good; and then to make void such a Right, is not to do Evil, and so the necessity remains unavoidable; but still with this Proviso and not else, That the Prince may proceed thus, if He believe the *probability* and *certainty* of such a destructive Religion's coming in, if He Die without other Heir than He has already; Or that, if it do come in, He believes it as *Dangerous* and *Destructive* as others do: else His Conscience is bound, and He Obliged to follow it. In the last place, to strengthen the belief of this Maxim, on which the stress of the Dispute depends, that what was once a Mans full and undoubted Right and Propriety, if it ever after prove utterly *inconsistent* with the *publick* Good, finally ceases to be His Right or Propriety; and that to deprive him of the Possession of that thing, is not an Injury, nor doing Evil that Good may come of it, I will in short, endeavour to make out, by shewing, That God doth Himself *Dispence* in such Cases, with Princes *forc't Actions*. I might insist on a tacit Consent of every Subject to this purpose, because Government is not Fixed and settled without such a Consent, but shall rather conclude with the strongest Proof, the Authority of Scripture.

The Apostles had a Power given them by our Saviour, That *whatsoever they did bind on Earth should be Bound in Heaven*, and *whatsoever they did loose on Earth should be loosed in Heaven*; and *whosoever Sins they did Remit they were Remitted*, and *whosoever Sins they did Retain, they were Retained*. Which Apostolical Power of *Loosing* and *Binding*, *Remitting* and *Retaining*, the Learned observe, and Expound to be the power of admitting into the Number and Fellowship of the Faithful, upon Repentance; and Exclusion or Banishment from it for Sins Scandalous, and putting them into a state of unworthyness, to partake of the *Christian Mysteries*, and be reputed a *Member of Christ*; and this is called *Excommunication*; from which too, upon unfeigned Repentance,

tance, they had Authority to Release; now this Power is commonly called the *Power of the Keyes*, is an ordinary jurisdiction derived from the Apostles to their Successors, who exercise such an Authority to this day. Now, This jurisdiction seems to derive from the abovementioned Texts, on which 'tis grounded, so universal an extent, as if no one *whatsoever*, not *Princes themselves*, were exempt from it, the words *Whatsoever* and *Whomsoever* being *Universal*; and in common Speech Excluding none, but comprehending all. And some men, namely the *Romanists*, who catched at the least outward appearance or countenance from Scripture for erecting the *Popes Unlimited Power*, suppose these places of Scripture to confer on Church-Governours a Jurisdiction, Authority, and Right of Government over *Princes Themselves*, so as to *Censure*, and *Actually Excommunicate* them; because 'tis said, That *Whatsoever* they did bind on Earth, should be bound in Heaven: But neither in the Apostles *practise* nor *examples* of Antiquity can we find ever such an Authority to have been exercised over *Princes*, though no doubt, occasion might often enough occur. And Conformably to this, the best *Reformed Church*, (I mean **That of England**) Teaches, That 'tis not Lawful to Excommunicate *Princes*; that is, denounce them to be *No Members of Christ and his Church*. For, although this Power is for *Edification*, and not for *Destruction*; and no doubt every *Christian Prince*, like every other *Private Christian*, is intrusted to the care of some *Spiritual Pastor* or *Pastors* to Instruct him, and give Account for his Soul, if it be lost through their default; and therefore they might seem to have Power of using all means for *His Salvation* as they may for *others*, and this of *Excommunication* being such, they might therefore *Excommunicate* Him; (I mean not from the *Visible Company* of the Faithful, for that they cannot, but from Participation of the *Mysteries* and *Ordinances* of our Religion, and from being a Member of Christ's *Invisible Church*); But this neither they did nor we do, on this *Supposition*, and Maxim in Divinity, that *Princes* are, and ought to be Exempt from common and ordinary Rules, which others

are Subject to, if so be the Obliging a *Prince* to those Rules, would be occasion of Dammage and Danger to the *Common-Wealth*, as subjecting him to *Church-Censures*, tho never so deservedly, would necessarily be; for it would look as if he had a *Superiour* on Earth, though really it were only a *Superiours Delegate*; and subject Him to be despised and slighted by some, who would value themselves above him, as not so near to Gods Favour and Communion as themselves; it would occasion discord between the *Prince* and the *Church*, and hazard the taking away all *just Authority*, nay, the expulsion of *Christianity* it self: and therefore rather than endanger the *publick Peace* and *Tranquillity*, the *Prince* should be Exempt from an Ordinance and Institution of *Christ Himself*, which in *Reason* doth touch Him as well as any else; Will it not then follow, that rather than manifestly hazard the both *Spiritual* and *Temporal* good of His People, a Divorce, being the only remedy, may as well be warranted; and He as well freed from the dangerous Tye of *Marriage* in such a Case, as from *Excommunication* it self? Nay, we find God himself *Dispensing* with an *Eternal* and *Natural Law* for the sake of the *Publick Spiritual Good*. God Dispensed with the *Natural Law* of doing no Murther, and that within the near Relation of Father and Son, and commanded *Abraham* to slay *Isaac*, that He might thus give a rare Example of his Faith for all the Church of God afterwards to imitate, both *Jewes* and *Christians*: and *David* in extremity of Hunger was Indulged, and that not immediatly by God, but by the prudential rational deduction of *Abimelech* the Priest, that a Case of necessity did sufficiently Dispense, was Indulged, I say eating the *Shew-bread* against a positive Law, that none but the Priests alone should eat it, and yet did not do Evil, in eating the forbidden Bread, that Good might come of it, the preservation of his Life; and that was all the good it did, because his Life, at that time not being King, had no other Influence on the *publick Good*, than as afterwards he was to be King.

I Conclude therefore, that if not only the *publick*
good

good cannot be *procured*, but the *greatest* and *highest* *Mischiefs* be *prevented* without the Divorce of a Person whose Marriage hinders the only remedy and *prevention* of those great *Mischiefs*, introduction of Idolatry, Superstition, and Defection from the true Religion; that a *perpetual* Separation of that Person from the Prince is made *necessary* to the avoiding those *Mischiefs*, and because those *Mischiefs* must and ought to be, and may lawfully, by this way of Separation be Avoided; (*Christianity* it self, for the prevention of like *Mischiefs* dispensing with Him in another as *solemn* an Ordinance of Religion,) this Separation so *necessitated* shall not leave any Tye or *Obligation* on the Prince which is *inconsistent* with *perpetual necessary*, not *accidental* Separation, and such a Tye is *Marriage*, but that the Prince is thus dis-ingaged single and free to pursue the averting those dreadful, destructive, and otherwise certain *Mischiefs* which would Enſue to the ruine of the *greatest* Publick Good, both *Spiritual* and *Temporal*; the procurement of which cannot be prejudiced by any *private* Interest or Right, for that ceases to be so, when it stands in competition with the *Publick*; but dispenseth with the *Annulling* that *Right* and *Propriety*, by a *prudential*, *rational*, and true Inference from an *unavoidable* Necessity.

F I N I S.
